IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7715 OF 2006

Tora Khasgir Borhani & Anr. .. Petitioners

V/s

Regional Registration Officer & Ors. .. Respondents

Mr.P.M. Havnur with Mr.J.K. Mistry for the Petitioners.

Mr.V.P. Malwankar, A.G.P. for Respondent No.1.

Mr.S.S. Pakale for Respondent No.2.

CORAM : H.L. GOKHALE, ACG. CJ. &
V.M. KANADE, J.

DATE : 23RD JANUARY 2007

P.C. :

1. Heard the counsel for the parties.

2. The 1st Petitioner is the wife of the 2nd Petitioner. She is an Indian citizen. The 2nd Petitioner is an Australian citizen of Iranian origin. They were married on 1st February 2004. The 1st Petitioner claims to be a model and a cine artist whereas the 2nd Petitioner is stated to be a person participating in the stunts in films. He has been coming to India from time to time and has in fact spent quite a few years of his childhood in India. It has so

happened that although when he came to India on earlier occasion, he did not have any restrictions in his visa, the Respondents' view was that he was required to be only in Chennai, but he was seen working with certain film production in Mumbai also. It was also noticed that he had over-stayed the period for which visa was issued. The consequent result is that his name has been entered into a register known as Prior Reference Category (PRC). This entry in PRC Register makes it difficult for the 2nd Petitioner to come back to India. Presently he is in Australia. He wants a visa for employment and to be India for a long time.

3. Mr.Havnur for the Petitioners submitted that although a reply has been filed by a Police Inspector from the Office of the Deputy Commissioner of Police, and Foreigners Regional Registration Officer, Special Branch-II, C.I.D., Mumbai, it is not stated that there are any damaging antecedents. He submits that at the highest this is a case of some technical breaches and the application of the 2nd Petitioner for entry into India and to stay here for a longer duration ought to be considered on this background.

4. We have perused the reply filed by the State Government and also gone through the files produced by Mr.Pakale appearing for the Ministry of Home Affairs.

As rightly stated by Mr.Havnur, there are no damaging antecedents and, at the highest, these are technical breaches. However, considering the fact that the 2nd Petitioner is married to an Indian citizen and is required to come to India for work, in our view, the Respondents ought to consider his application appropriately on this background and the entry of his name in the PRC Register should not be considered as an obstacle for issuance of the employment visa when the 2nd Petitioner now applies. Mr.Havnur assures that the 1st Petitioner will see to it that the 2nd Petitioner does not over-stay here in India nor will he commit any breaches. In the event of any such breaches on the part of the 2nd Petitioner, it will of course be for the Respondents to take appropriate action in future.

5. Petition stands disposed of with the above order.

ACTING CHIEF JUSTICE

V.M. KANADE, J.